

Assembly Bill No. 66

CHAPTER 1027

An act to amend Section 7205 of, and to add Section 7204.03 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1998. Filed
with Secretary of State September 30, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 66, Baca. Local sales and use tax: jet fuel: place of sale and revenues.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose sales and use taxes pursuant to the adoption of local ordinances including specified provisions. That law requires, in the case in which a retailer has more than one place of business in the state, that the places at which the sales of that retailer are consummated for purposes of a local sales tax be determined in accordance with rules and regulations prescribed and adopted by the State Board of Equalization. That law further requires that any local sales tax imposed pursuant to its provisions be administered by the State Board of Equalization, and that revenues collected by the board with respect to any such local tax be allocated by the board to the taxing local agency at least twice in every calendar quarter.

This bill would specify, for purposes of applying a local sales tax imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law to any sale of jet fuel, that the point of sale of that fuel is the point of delivery of that fuel to the aircraft, if the principal negotiations for that sale are conducted in this state and the retailer of that fuel has more than one place of business in the state. This bill would also require, in the cases in which the point of sale of jet fuel is a multijurisdictional airport, as defined, that the tax revenue derived from those sales, except for those sales consummated at San Francisco International Airport or Ontario International Airport, be transmitted by the State Board of Equalization in specified shares to the city, county, or city and county in which the multijurisdictional airport is located, and to the city, county, or city and county that owns or operates the multijurisdictional airport or the county in which the owning or operating city is located. This bill would require that all the local sales tax revenues derived from sales of jet fuel that are consummated at the point of delivery to the aircraft at San Francisco International Airport be transmitted by the board one-half to the City and County of San Francisco and one-half to the County of San

Mateo, and that the local sales tax revenues derived from sales of jet fuel that are consummated at the point of delivery to the aircraft at Ontario International Airport be transmitted by the board to the City of Ontario or the County of San Bernardino, in accordance with the taxing jurisdiction on behalf of which those revenues were collected. This bill would also make technical, nonsubstantive changes.

This bill would make legislative findings and declarations as to the necessity for a special statute, and would declare that this bill's provisions are severable.

This bill would take effect immediately as a tax levy, but its provisions would become operative on January 1, 1999.

The people of the State of California do enact as follows:

SECTION 1. Section 7204.03 is added to the Revenue and Taxation Code, to read:

7204.03. (a) Notwithstanding any other provision of this part, in the case of retail sales of jet fuel that are, in accordance with paragraph (2) of subdivision (b) of Section 7205, consummated at the point of delivery of that jet fuel to an aircraft at a multijurisdictional airport, the sales tax revenues collected by the board pursuant to this part with respect to those sales shall be transmitted by the board in accordance with subdivision (b). For purposes of this section, a "multijurisdictional airport" is an airport that is owned or operated by a city, county, or city and county that meets both of the following conditions:

(1) The owning or operating city, county, or city and county imposes a local sales tax pursuant to an ordinance adopted pursuant to this part.

(2) The owning or operating city, county, or city or county is different from the city, county, or city and county in which the airport is located.

(b) (1) Except as provided in paragraph (2), the sales taxes collected by the board pursuant to this part with respect to retail sales of jet fuel described in subdivision (a) shall be transmitted by the board in accordance with the following:

(A) One-half to the county or city and county in which the point of delivery to the aircraft is located, less the amount transmitted to a city pursuant to subparagraph (B), if any; and one-half to the county or city and county that owns or operates the airport or to the county in which the city that owns or operates the airport is located, less the amount transmitted to a city pursuant to subparagraph (C), if any.

(B) If the multijurisdictional airport is located in a city imposing a local sales tax pursuant to an ordinance adopted pursuant to this part, the board shall transmit to that city that amount of sales taxes collected by the board with respect to retail sales of fuel described in

subdivision (a) that is based on 50 percent of the rate set by that city's ordinance.

(C) If the multijurisdictional airport is owned or operated by a city imposing a local sales tax pursuant to an ordinance adopted pursuant to this part, the board shall transmit to that city that amount of sales taxes collected by the board with respect to retail sales of fuel described in subdivision (a) that is based on 50 percent of the rate set by that city's ordinance.

(2) Notwithstanding paragraph (1), both of the following shall apply:

(A) In the case of retail sales of jet fuel as described in subdivision (a) that are consummated at San Francisco International Airport, one-half of the sales taxes collected by the board pursuant to this part with respect to those sales shall be transmitted by the board to the City and County of San Francisco, and one-half of the sales taxes collected by the board pursuant to this part with respect to those sales shall be transmitted by the board to the County of San Mateo.

(B) In the case of retail sales of jet fuel as described in subdivision (a) that are consummated at Ontario International Airport, the board shall transmit sales taxes collected by the board pursuant to this part with respect to those sales in accordance with both of the following:

(i) All of the sales taxes that are derived from a local sales tax rate imposed by the City of Ontario shall be transmitted to that city.

(ii) All of the sales taxes that are derived from a local sales tax rate imposed by the County of San Bernardino shall be allocated to that county.

SEC. 2. Section 7205 of the Revenue and Taxation Code is amended to read:

7205. (a) For the purpose of a sales tax imposed by an ordinance adopted pursuant to this part, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from those sales shall include delivery charges, when those charges are subject to the state sales and use tax, regardless of the place to which delivery is made.

(b) (1) In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of a sales tax imposed by an ordinance adopted pursuant to this part shall, subject to paragraph (2), be determined under rules and regulations to be prescribed and adopted by the board.

(2) In the case of a sale of jet fuel, the place at which the retail sale of that jet fuel is consummated for the purpose of a sales tax imposed by an ordinance adopted pursuant to this part is the point of the



delivery of that jet fuel to the aircraft, if both of the following conditions are met:

(A) The principal negotiations for the sale are conducted in this state.

(B) The retailer has more than one place of business in the state.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution to local sales taxes imposed with respect to sales of jet fuel that are consummated at San Francisco International Airport or Ontario International Airport because of the unique jurisdictional and fiscal concerns raised by the location, ownership, and operation of those airports.

SEC. 4. The provisions of this act are severable. If any provision of this act or its application is held to be invalid, that invalidity shall not affect any other provision or application of this act that can be given effect without the invalid provision or application.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on January 1, 1999.

